

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VICTORIA FRIESON, an individual;  
TINA COMBS successor in interest of  
Decedent INELL JENKINS

Plaintiffs,

v.

DOLLAR TREE STORES, INC., a  
Virginia corporation; JUSTINE, an  
individual; and DOES 1-25, inclusive,

Defendants.

Case No.: 3:22-cv-02212-MMC  
[Alameda County Superior Court Case No.:  
21CV000537]

[Re-assigned to Hon. Maxine M. Chesney,  
District Judge]

**ORDER GRANTING THE PARTIES'  
STIPULATION TO REMAND CASE TO  
STATE COURT**

Complaint Filed: October 13, 2021

The Court, having read and considered the parties' Stipulation to Remand,  
hereby ORDERS as follows:

**I. BACKGROUND**

On October 13, 2021, Plaintiffs VICTORIA FRIESON, an individual; TINA  
COMBS successor in interest of Decedent INELL JENKINS ("Plaintiffs")  
commenced the above-entitled action in the Superior Court for the State of  
California, County of Alameda by filing a Complaint therein entitled *VICTORIA  
FRIESON; TINA COMBS successor in interest of Decedent INELL JENKINS v.  
DOLLAR TREE STORES, INC.; JUSTINE; and DOES 1-25, inclusive*, Case No.

1 21CV000537. Plaintiffs' Complaint for personal injury arises from an alleged  
 2 incident on October 17, 2019, at a Dollar Tree store located in the City of San  
 3 Leandro, County of Alameda, State of California. Dollar Tree removed the matter to  
 4 federal court pursuant to 28 U.S.C. §§1332, 1441, and 1367, on April 8, 2022.

5 Dollar Tree has identified its manager on duty at the time of this incident in its  
 6 Initial Disclosures as Soraida Miramontes. Plaintiff has advised its intent to file a  
 7 motion for leave to amend to add the manager on duty as a defendant and to remand  
 8 to state court. The parties have met and conferred on this issue.

9 The parties have now agreed and stipulated that with the addition of the Dollar  
 10 Tree manager on duty, complete diversity will no longer exist. Accordingly, the  
 11 parties request an order from this Court remanding the case to the Alameda County  
 12 Superior Court, Case No. 21CV000537, and have agreed that with such remand,  
 13 Plaintiff will not add Dollar Tree employee Soraida Miramontes as a defendant. The  
 14 parties have further agreed that so long as Soraida Miramontes remains an employee  
 15 of defendant, defendant will produce her for testimony.

## 16 II. ANALYSIS

17 United States Code, Title 28, Section 1447(c), provides that “[i]f at any time  
 18 before final judgment it appears that the district court lacks subject matter  
 19 jurisdiction, the case *shall be remanded.*” (Emphasis added). Because complete  
 20 diversity no longer exists, this Court lacks subject matter jurisdiction and must,  
 21 therefore, remand the case to state court pursuant to 28 U.S.C. § 1447(c). *See Bruns*  
 22 *v. NCUA* 122 F.3d 1251, 1257 (9<sup>th</sup> Cir. 1997) (“Section 1447(c) is mandatory, not  
 23 discretionary.”)

## 24 III. ORDER OF THE COURT

25 1. Pursuant to the parties' Stipulation, because complete diversity will no  
 26 longer exist, this Court will no longer has subject matter jurisdiction and the matter is  
 27 hereby REMANDED to the Superior Court for the State of California, County of  
 28 Alameda, Case No.: 21CV000537. This Order shall be accorded full force and effect

1 in the Superior Court of the State of California, County of Alameda, Case No.:  
2 21CV000537.

3 2. All pending dates in the Federal action are hereby vacated.  
4 3. Plaintiff will not name defendant's employee Soraida Miramontes as a  
5 defendant. Defendant will make Soraida Miramontes available for testimony in the  
6 instant case so long as Soraida Miramontes remains an employee of Defendant.

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8 **IT IS SO ORDERED.**

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10 Dated: July 25, 2022

  
11 Hon. Maxine M. Chesney  
12 United States District Court Judge

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